

SELF-SERVICE CENTER

INSTRUCTIONS: HOW TO RESPOND TO PAPERS FOR “DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH CHILDREN”

DOMESTIC VIOLENCE: Domestic violence can be a part of any marriage. Domestic violence includes **physical violence** such as hitting, slapping, pushing, or kicking you and/or your child(ren) and/or **threats** of physical violence directed at you and/or your child(ren) and/or **verbal abuse** used to control you and/or your child(ren). Your spouse does **not** need to have been **convicted** of domestic violence or assault for you to be a domestic violence victim. You do **not** need to have sought medical care or been admitted to a hospital to be a victim of domestic violence.

All court documents will request your address and phone number. If you are a victim of domestic violence, are in a domestic violence shelter, or if you do not want your address known to protect yourself or your children from further violence, you **must** file and get an **“Order of Protection.”** With that Order, you do **not** need to put your address and phone number on court papers. Just write “protected” where the form asks for this information and update the Clerk of the Court with an address and phone number as soon as possible so that the court can reach you.

HOW TO COMPLETE YOUR WRITTEN RESPONSE TO THE PETITION:

1. Type or print in **BLACK ink only.**
2. Make sure your form is titled **“RESPONSE TO PETITION FOR DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH CHILDREN.”**
 - (A) In the top left corner of the first page, fill out the following information: YOUR name; address (if not protected); city, state and zip code; telephone number; and, your ATLAS number, if you are receiving or have received AFDC from the Arizona Department of Economic Security; Attorney Bar Number if represented by an attorney; and, whether you are representing yourself **or** if you are the attorney whether you are representing the Respondent.
 - (B) Fill in the name of the “Petitioner” and “Respondent” the same way as it is on the Petition. You must do that for every document filed with the court regarding this case from now on. Use the case number that is stamped in the upper right-hand corner of the Petition. You must use that case number for every document filed with the court regarding this case from now on.

STATEMENTS TO THE COURT, UNDER OATH OR AFFIRMATION:

- | SECTION | INSTRUCTION |
|---------|--|
| 1. | Information about my spouse. Fill in your spouse’s (the Petitioner’s) name, address (if not protected), date of birth, occupation, and length of time domiciled (lived) in this state. This is basic information about your spouse, the PETITIONER. |
| 2. | Information about me. Fill in your name, address, date of birth, occupation, and length of time domiciled (lived) in this state. This is basic information about YOU, the RESPONDENT. |

3. **Information about my marriage.** This is general information about your marriage. Fill in the date that you were married, and the city and state where you were married. Then check the box if you have a non-covenant marriage. If you have a covenant marriage, you should file a motion to dismiss, and then petition the court for a dissolution of a covenant marriage, if you want a divorce. If you have a covenant marriage, attach a copy of the marriage license to show that you have a covenant marriage.
4. **90-day requirement.** This tells the court that you and/OR your spouse has lived in Arizona, or been stationed here while in the Armed Forces, for at least 90 (ninety) days prior to the date your spouse filed the divorce papers. Before your spouse filed for Divorce, this **MUST** be true. **IF IT IS NOT TRUE**, your spouse filed too soon and the case must be dismissed. You or your spouse can file a **"Motion to Dismiss,"** then refile the divorce papers once the statement is true.

INFORMATION ABOUT OUR CHILDREN UNDER 18 YEARS OF AGE

5. **Domestic Violence.** This tells the court if domestic violence was in the marriage and affects a request for joint custody, (if you intend to ask for joint custody). If you are not sure what domestic violence means, see the first page of this document. Then, check the box that applies to your situation.
6. **Children of the Parties Who Are Less Than 18 Years of Age.** Write the names of any child(ren) under age 18 common to you and your spouse, whether born to you and your spouse during your marriage or adopted by you and your spouse during the marriage. Include their birthdate(s), address(es), and length of time at the last address. If you do not have any children, you should be using the Response Packet Without Children.
7. **Pregnancy.** If the wife is **NOT** pregnant at this time, check the first box and go to paragraph 8. If the wife **is** pregnant, check the second box. Fill out the date the baby is due, and fill in any information regarding the parents of the unborn child.
8. **Summary of What I Request Concerning Our Child(ren) That is Different From What My Spouse Requested in the Petition and Affidavit of Minor Child(ren).** Since you are responding to what your spouse asked for in the Petition, you should now summarize for the judge how what you request concerning the child(ren) is different from what your spouse asked for in both the Petition and Affidavit of Minor Children.

INFORMATION ABOUT PROPERTY AND DEBT: The information you give in paragraphs 9 and 10 tells the court about your property and debts, and how you think your property and debts should be divided. Community property is generally any property you and your spouse purchased during your marriage or paid for during the marriage, no matter who uses the property or who paid the money. Unless property was a gift or inheritance, all property gotten (acquired) during the marriage or after the Respondent was served with a copy of the Petition for Divorce is community property, and both you and your spouse are entitled to roughly an equal share of this property. Community debt or bills are generally any debt, you and your spouse, acquired during your marriage, no matter who spent the money. If you have questions, or have a lot of community property or debt, you should speak with a lawyer **BEFORE** you file your Response.

- 9.a. **Property acquired during the marriage. Community property.** If you and your spouse do **not** have any property from the marriage, check the first box. If you and your spouse have property together, check the second box. If you checked the second box, you must tell the court what property should go to you and what property should go to your spouse. Generally, the court will divide the property 50-50, unless there are good reasons not to.

It is unlikely that the court will give most or all of the property to either spouse, so put some thought into what you think would be a fair division before answering this question. Usually, if you and your spouse cannot decide which spouse should receive the property, the court will order that the property be sold and any money received divided between you and your spouse.

List the property that you want the court to award to your spouse, the Petitioner, and list the property that you want the court to award to you, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes and tell the court how much the property is worth (fair market value). You can use the brand name and model where applicable, and serial numbers.

Types of property:

- a) **Real Property (property or home).** Check who you want to get the property. You can ask the court to give you the home, to give the home to your spouse, or to sell the home and divide the proceeds. You should write the complete address of the property under "Real estate located at." Most property has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps," which appears on your deed papers. You should use this description. A cemetery plot is considered real property.
- b) **Household furniture.** This includes sofas, beds, tables, and so forth. Be specific.
- c) **Household furnishings.** This includes things in the house other than furniture, for example: dishes, small appliances, rugs, and so forth. Be specific.
- d) **Other.** List things that you want or you want your spouse to have that have not already been listed. Be specific.
- e) **Pension/retirement fund/profit sharing/stock plans/401K.** You and your spouse each generally have a right to up to one-half interest in the other spouse's plan, for the number of years you were married. The longer the marriage, the greater your financial interest in your spouse's plan. (Your interest, usually, includes up to 50 percent of the benefits/plan if you have been married the whole time the plan has existed.) Check this box if you want to divide your interest in a retirement or profit sharing/retirement/401K plan. If you check this box, you must see an attorney about a document called a **Qualified Domestic Relations Order or QDRO. A QDRO is a very specialized legal document that requires professional assistance to prepare.** The Self-Service Center and the court **do not** have Qualified Domestic Relations Order forms.
- f) **Motor vehicles.** List the vehicle identification number, the year and make of the car (Ford, Honda) and the model (Mustang, Lumina).

- 9.b. **Property acquired before marriage. Separate property.** If you did **not** have, or bring, any property into the marriage, or you did not receive any gifts, devises, or inheritances, check the first box. If your spouse did **not** have or bring any property into the marriage, or did not receive any gifts, devises, or inheritances, check the next box. If you or your spouse brought property into the marriage, or received gifts, devises, or inheritances, check the third and/or fourth box. If you checked the third and/or fourth box, you must tell the court what property you brought into the marriage and what property your spouse brought into the marriage. List the property that you want the court to award to your spouse, the Petitioner, and list the property that you want the court to award to you, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes. You can use the brand name and model where applicable, and serial numbers.

- 10.a Debts incurred during the marriage. Community debts.** If you and your spouse do **not** owe money on any debts from the marriage, check the first box and go directly to paragraph 10.b. If you and your spouse owe money on any debts from the marriage, check the second box. If you check the second box, tell the court which debts you should pay and which debts your spouse should pay. Generally, the court will attempt to make a fair division of the debts. If you get the property that has debt on it, you probably will be given the debt. Ordering one person to pay all the debt is unusual. Think about what is a fair division of the debts before answering this question. Put enough information to identify each debt.

If you and your spouse have been separated and have acquired new debts on your own before filing for divorce, you may want the court to order that each of you pay for any new debt after the date you separated. You can make this request on the last page of your Petition under Letter I "Community Debts."

- 10.b. Debts incurred prior to marriage. Separate debts.** If you and your spouse did not owe money on any debts before you were married, check the first box and GO ON to 11. If you owed money on debts before you were married, check the second box. If your spouse owed money on debts before you were married, check the third box. If either you or your spouse owe money on any debts you or your spouse brought into the marriage, describe the debts, and tell the court which debts you should pay and which debts your spouse should pay.
- 11. Summary of What I, the Respondent, requested concerning property and debts that is different from what my spouse requested in the Petition.** Tell the court what is different between your plans for the division of the property and debt and what your spouse asked for in the Petition.
- 12. Tax Returns:** Decide what you want to do about any income tax refund. Check the box that applies to you. If you have questions about which box you can check, you should see a lawyer, an accountant, and/or contact the Internal Revenue Service (IRS).

INFORMATION ABOUT SPOUSAL MAINTENANCE/SUPPORT (ALIMONY)

- 13. Spousal Maintenance/Support** is the term used to describe money paid from one spouse to the other spouse as part of a divorce. You may know the term as alimony. Spousal maintenance/ support is designed as a safety net for a spouse who cannot provide for his/her needs or who meets other requirements listed on the Petition under paragraph 8. The idea behind spousal maintenance/support is that accomplishments during your marriage, including increases in earning potential and living standards, are shared and earned by **BOTH** parties to a marriage. Look at paragraph 13 to see if spousal maintenance/support applies to you or your spouse. Then, check the box that most applies to you. **Spousal maintenance/support is paid separately from child support and is not a substitute for or a supplement to child support.**
- 14. SUMMARY OF WHAT I WANT REGARDING SPOUSAL MAINTENANCE/SUPPORT THAT IS DIFFERENT FROM WHAT MY SPOUSE ASKED FOR IN THE PETITION.** Since you are responding to what your spouse asked for in the Petition, you should now summarize for the court how what you want for spousal maintenance/support is different from what your spouse wants. You should do this because the Petition your spouse used might not be from the Self-Service Center, and it might be arranged differently than this form.

OTHER STATEMENTS TO THE COURT. Check only one box for each statement:

15. **Status of Marriage and Conciliation.** Your marriage is irretrievably broken. This means that your marriage is over and you do not believe you can get back with your spouse. AND, the conciliation requirements do not apply or have been met. This means that you do not think marriage counseling through the court will help you get back with your spouse. OR, Your marriage is not over AND the conciliation requirements either apply or have not been met. If this statement is true, you must tell the court why it is true.
16. **Child Custody Jurisdiction.** You are stating that the court has or does not have jurisdiction or the authority to decide child custody matters under Arizona law because the child(ren) has/have or has/have not lived in Arizona for at least 6 months before this Petition was filed. If you have children under the age of 18 who are common to you and your spouse and you are now divorcing, generally, you should have lived in the State of Arizona with the children for at least 6 months, or Arizona must be the child(ren)'s primary place of residence before your spouse files for divorce. If you have questions regarding this requirement or for other reasons why the court may not have jurisdiction, see a lawyer for help.
17. **GENERAL DENIAL.** This section tells the court that even if you did not answer everything said in the Petition, you deny all issues you did not address. This is extra protection for you.
18. **WRITTEN CUSTODY AGREEMENT.** Check this box **ONLY** if you and your spouse have a written agreement regarding custody, parenting time (formerly known as "visitation") and child support that **both of you signed BEFORE** you filed **the "Response to the Petition for Dissolution of Marriage."** If you have only discussed these issues and do not have a written agreement, do **NOT** check this box. Attach a copy of the written agreement if you have a copy.

REQUESTS TO THE COURT. This section requests that the court grant you and your spouse your divorce and tells the court other requests you are making:

- A. **DISSOLUTION.** This is your request to end your marriage by a divorce or to dismiss the case because of one of the reasons listed. Check the box that applies to your case.
- B. **NAMES.** ONLY write in this section if you want to use your maiden or former name. Write in your birth name or former last name in the space provided. If you are not the person who is requesting to have your former name restored, the court must have a written request from the party who wants his or her name restored to change the name.
- C. **CHILD CUSTODY AND PARENTING TIME.**
- C.1. **SOLE CUSTODY OF CHILDREN AND PARENTING TIME.** If you want sole custody, check the box that applies, including the parenting time you are asking for. Tell the court whether you want custody of the child(ren) to go to your spouse (the Petitioner) or you (the Respondent).
- PARENTING TIME:** Check only one box. You can ask that the non-custodial parent (the parent having physical custody of the child(ren) less than 50% of the time) have one of the following types of parenting time (If you want to know more about custody and parenting time read the Parenting Time Guidelines in packet 4):
- ☐ **Reasonable parenting time.** This suggests an amount of parenting time appropriate to the age of the child(ren). The court offers suggested amounts of parenting time, but the amount can vary by agreement of both parents.

- ☐ **Supervised parenting time to the non-custodial parent.** You should request supervised parenting time if the non-custodial parent cannot adequately care for the child(ren) without another person present. You may request this if the person not having custody abuses drugs or alcohol; is violent or abusive; or, does not have the parenting skills to care for the child(ren) without another adult present. Remember, supervised parenting time is not intended to punish the parent, but to protect the child(ren)
- ☐ **No parenting time to the non-custodial parent.** You should mark this option only if the non-custodial parent has seriously harmed, abused, or otherwise is a serious danger to the child(ren)'s physical and emotional health, or if there is a criminal court order stating no contact between the child(ren) and the non-custodial parent. You may use this as a last resort to protect the child(ren), **OR**,

- C.2. JOINT CUSTODY:** If you are asking for joint custody, you must file before your court hearing a **"Joint Custody Agreement"** signed by both parents that the court must approve.
- D. CHILD SUPPORT:** Tell the court who you think should pay child support. The person who has custody of the child(ren), or who has physical care of the child(ren) more than 50% of the time, is the person who should receive the support. The other spouse, often called the "non-custodial" parent, must pay the support. The income of the parties generally determines the amount of the support according to court guidelines. You must check only one box.
- E. INSURANCE AND HEALTH CARE EXPENSES FOR CHILDREN:** Check only one box. Tell the court which parent should provide insurance for the child(ren). Whichever parent has the most affordable insurance plan available through work, generally should pay for insurance. Adjustments can be made to child support to reflect the costs of insurance for the child(ren).
- F. TAX EXEMPTION:** Decide how you and your spouse will declare the tax dependency exemptions, for which child(ren) for which years. Federal Tax law also determines this for you. If you are not sure, see a lawyer or an accountant for help.
- G. SPOUSAL MAINTENANCE/SUPPORT.** This tells the court that you or your spouse should pay money to the other spouse on a monthly basis to help with living expenses. Check the first box if your spouse (the Petitioner) will be paying spousal maintenance/support. Check the second box if you (the Respondent) will be paying spousal maintenance/support. If you or your spouse should not pay spousal maintenance/ support, do not check either box, and **GO ON. (You can check a box only if you checked the same box in the spousal maintenance section on page 5, paragraph 13.)** If you request spousal maintenance/support, choose what you believe to be a reasonable monthly amount and tell the court how long the money should be paid. Base the amount of any request on the receiving party's need and the income of the spouse paying this money. Spousal maintenance/support is not a substitute for, or a supplement to, court ordered child support.
- H. COMMUNITY PROPERTY.** This tells the court that your division of the property is fair.
- I. COMMUNITY DEBT.** This tells the court that your division of the debt is fair, and that the court should divide the debts as requested by you in your Response. If you have been separated from your spouse for enough time that you or your spouse may have additional debts, write the date of the separation on the line provided if you want each spouse to pay the debts acquired after you separated.

- J. SEPARATE PROPERTY and DEBT.** This states that you will keep the property you owned before the marriage and that your spouse will keep the property he/she owned before the marriage, and that you will keep all property acquired by gift, devise, inheritance, or after you were served with the Petition, and that the Petitioner will keep all property acquired by gift, devise, inheritance, or after you were served with the Petition.
You will also pay all of your separate debts, and Petitioner will pay all of his/her separate debts.
- K. OTHER ORDERS:** Tell the court anything else you may want ordered that has not been covered in your Response.

OATH OR AFFIRMATION AND VERIFICATION OF RESPONDENT. Sign this form in front of a notary public or a deputy clerk of the Superior Court. By doing so, you are telling the court that everything contained in the Response to the Petition for Dissolution is true.

PARENT INFORMATION PROGRAM. Remember to attend the Parent Information Program class. For further information see the ***“Order and Notice to Attend the Parent Information Program Class”*** you should have received from the Petitioner. If you did not receive this information, the Self-Service Center has the form.